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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,881	11/27/2006	Andreas Biggel	NRS-33600	1496

22202 7590 03/04/2010  
WHYTE HIRSCHBOECK DUDEK S C  
INTELLECTUAL PROPERTY DEPARTMENT  
555 EAST WELLS STREET, SUITE 1900  
MILWAUKEE, WI 53202

EXAMINER
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JENNISON, BRIAN W

ART UNIT	PAPER NUMBER
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3742

NOTIFICATION DATE	DELIVERY MODE
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03/04/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomailbox@whdlaw.com  
jpolmatier@whdlaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/561,881	<b>Applicant(s)</b> BIGGEL ET AL.	
	<b>Examiner</b> BRIAN JENNISON	<b>Art Unit</b> 3742	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-6 and 8-17 is/are pending in the application.
- 4a) Of the above claim(s) 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-6, 8-15 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

***Response to Arguments***

1. Applicant's arguments with respect to claims 2-6, 8-17 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 2-6, 8-15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujii et al (US 2002/0027309).**

Fujii teaches:

**Regarding Claims 13-14, 17:** Fig 2 shows two parallel endless rotatable metallic cooling belts 23 and 26 which are cooled by the rollers. Upper guide rollers 21 and 24 have the belts 23 and 26 positioned over them. The rollers form a filling gap for material 11 and are rotatable in a downward direction counter to each other. **See Paragraph [0077].** The belts are also oriented at a 90 degree angle from a horizontal plane. The fact that a melted food is used in the claim is intended use as this invention may also be used for cheese.

**Regarding Claim 2:** Fig 2 shows the belts 23 and 26 arranged in a vertical position.

**Regarding Claim 3:** The belts 23 and 26 are rotatable in a downward direction counter to each other.

**Regarding Claim 4:** Fig 2 shows the cooling belts positioned over upper and lower guide rollers with the rollers axially parallel to each other.

**Regarding Claim 5:** A lower roller 29 is offset from lower roller 22.

**Regarding Claim 6:** Since the rollers 24 and 21 are cooling rollers there is some cooling medium acting on the rollers to achieve cooling. **See Paragraph [0014].**

**Regarding Claim 8:** The distance between the rollers 24 and 21 is easily altered to accommodate a larger or smaller gap.

**Regarding Claims 9-11, 15:** The rollers 28 and 29 are pressure rollers and may apply more or less pressure for adjusting the width of the strip of material. **See Paragraph [0080].**

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN JENNISON whose telephone number is (571)270-5930. The examiner can normally be reached on M-Th 7:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BRIAN JENNISON/  
Examiner, Art Unit 3742

2/24/2010  
/TU B HOANG/  
Supervisory Patent Examiner, Art Unit 3742